OFFICE OF THE MERIT COMMISSIONER

Province of British Columbia

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OFFICE OF THE MERIT COMMISSIONER

2004/2005 Annual Report

Province of British Columbia

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OFFICE OF THE
MERIT COMMISSIONER

E. George MacMinn, Q.C.
Clerk
Legislative Assembly of British Columbia
Victoria, British Columbia

Sir:

I have the honour of filing the 2004/2005 Annual Report of the Office of the Merit Commissioner, in accordance with the provisions of section 5.2 of the *Public Service Act*. This report covers my activities for the period from April 1, 2004 to March 31, 2005.

Respectfully submitted,

Diane Rabbani
Merit Commissioner

Victoria, British Columbia
May 2005

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OFFICE OF THE
MERIT COMMISSIONER

From The Merit Commissioner

It is my pleasure to present the fourth annual report for the Office of the Merit Commissioner. Established in 2001, the Office of the Merit Commissioner has a central role in maintaining a strong, professional, vibrant and non-partisan public service.

To oversee the application of the principle of merit in the public service, I have two primary responsibilities. The first is to conduct a random audit of appointments to, and from within, the public service. This is to ensure that the appointments were the result of a merit-based process and that the individuals appointed are qualified and competent to do the job. The second is to provide a review of appointments as the third and final step in an internal staffing review process.

The year 2004 marked the second year of a significant shift in the approach to staffing in the public service. Human resource services were consolidated with the creation of the BC Public Service Agency and a shift in authority gave more direct staffing accountability to line management. Additionally, in response to concerns that existing staffing procedures were a barrier to public service renewal, a cultural change to a more simplified, flexible and open approach to staffing shifts the energy and focus from process to results.

I am pleased by the results of this year's audit and review of appointments. The results reflect a balanced approach to staffing – one that takes into account the public interest, the right of individuals to a fair process, as well as the changing needs and demands of government. There was no evidence to indicate that any individual was unqualified for the position to which they were appointed or that the appointment was based on patronage.

On August 27, 2001, the Legislative Assembly passed legislation amending the *Public Service Act* to establish the Office of the Merit Commissioner.

The Merit Commissioner and Deputy Minister responsible for the BC Public Service Agency is appointed by the Lieutenant Governor and Council for a three-year term on the recommendation of the Legislative Assembly. The Legislative Assembly may only recommend an individual unanimously recommended by a special committee of the Assembly.

The Merit Commissioner must report annually to the Legislative Assembly concerning the Merit Commissioner's activities under the *Act* since the last report was made.

A competent, professional and non-partisan public service that is committed to the fundamental values inherent in the public service as a whole – impartiality, fairness, and transparency – is in the best interest of all British Columbians.

Diane Rabbani
Merit Commissioner

Public Service Staffing System — Accountabilities

BC Public Service Agency — sets staffing policies and procedures and provides staffing support and consultation to clients.

Ministries — responsible for the first two steps in an internal staffing review process and for staffing activities delegated by the Deputy of the BC Public Service Agency.

Merit Commissioner — responsible for providing systemic oversight of the application of the merit principle in the BC public service and for providing a review of the application of merit as the final step in an internal staffing review process.

Corporate Overview — Office of the Merit Commissioner

Vision — A professional and non-partisan public service.

Mission — To serve the people of British Columbia and the Legislative Assembly by monitoring public service appointments to ensure application of the merit principle.

Principles — The Merit Commissioner will operate in a manner consistent with the following principles:

- Fairness and impartiality;
- Personal and managerial independence;
- Confidentiality;
- Accountability to the Legislative Assembly and British Columbians.

Key Responsibilities — To achieve our vision and meet our mandate, the Office of the Merit Commissioner will:

- Monitor the application of merit by conducting audits of public service appointments;
- Provide a review of the application of merit as the final step in the staffing review process;
- Report annually to the Legislative Assembly on the application of the merit principle in public service appointments.

The Office of the Merit Commissioner may:

- Undertake special reports or "merit performance reviews" of system-wide issues respecting the application of the merit principle;
- Prepare and distribute surveys to assess the attitude of public service employees towards the application of the merit principle in the public service.

The Merit Principle in the BC Public Service

Merit has been the foundation of staffing in the public service for almost 100 years and has developed, over time, to the provision found today in the *Public Service Act*. This states that appointments to, and from within, the public service are to be based on the principle of merit.

Merit means that appointments will be non-partisan and made on the basis of an assessment of competence and ability to do the job. The *Public Service Act* states that the matters to be considered in determining merit must, having regard to the nature of the duties to be performed, include the applicant's education, skills, knowledge, experience, past work performance and years of continuous service in the public service.

Fundamental to a merit-based staffing process are the following key, overarching principles, which originate in legislation and in policy:

- staffing decisions are based on fair and equitable treatment of all applicants;
- open and transparent staffing processes and practices are followed;
- efficient and effective staffing practices, capable of recognizing and responding to current and future organizational requirements, are developed;
- flexible and innovative staffing processes, which reflect the nature and responsibilities of individual positions, are utilized;
- the public service is a single employer with a focus on broader corporate competencies; and
- diversity is valued and respected.

These principles support a results-based approach to staffing and are considered in the Merit Commissioner's audit and review of appointment decisions.

What is the Principle of Merit?

Merit means that appointments will be:

- Non-partisan; and,
- Based on an assessment of competence and ability to do the job.

Year in Review

1.0 Merit Compliance Audits

1.1 The Audit Process

Section 5.1 of the *Public Service Act* requires the Merit Commissioner to monitor the application of merit by conducting random audits of appointments to, and from within, the public service.

The audits assess whether:

a) the recruitment and selection processes were applied properly, resulting in appointments based on merit; and,

b) the appointed individuals possessed the required qualifications for the position.

The audit process is based on professional audit standards and methodology to ensure the necessary level of rigour and objectivity in assessing the application of merit. Accordingly, the Internal Audit and Advisory Branch of the Office of the Comptroller General assisted in designing and developing a program to review the application of merit on completed appointments. Due to recent legislative changes and a results-based approach to staffing, the audit methodology that was developed in 2001 was revised for this year's audit.

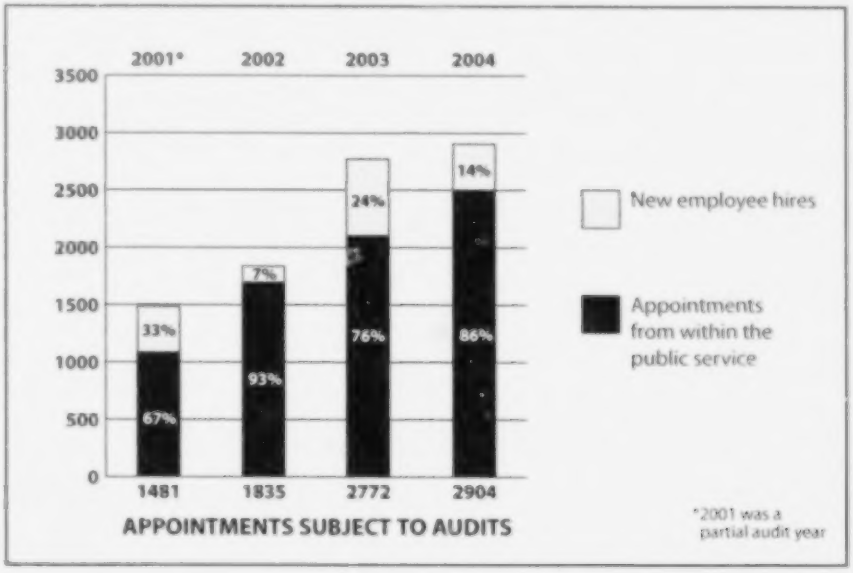
An overview of the audit process and program is included in this report as Appendices A and B.

To obtain an unbiased picture of the proper application of merit across the public service, the appointments selected for audit are both random and representative. The random sampling process, administered by BC STATS, is described in their report, "Random Selection for Merit Compliance Audits," and included in this report as Appendix C.

1.2 Appointment Details

For the purpose of the audit, all temporary appointments over seven months, regular appointments and direct appointments are identified. In 2004, there were 2904 appointments in these categories.

The number of appointments continues to rise each year. In 2003, there were 2772 appointments and in 2002 there were 1835. The appointments in 2004 represent an increase of 5% over 2003 and 58% over 2002, when the public service was undergoining workforce adjustment.



New employees to the public service accounted for 14% of the appointments, while 86% of the appointments were from within the public service. The graph shows an increase in the number of appointments made from within the public service from 2003 (76%) and 2001 (67%), but a decrease from 2002 when 93% of the appointments were made from within the public service. It is likely that workforce adjustment initiatives accounted for the high number of appointments made from within the public service during 2002.

The percentage of temporary appointments for longer than 7 months in 2004 was 11%. This is consistent with 2003 (10%).

Victoria, as a location, continues to have the highest number of appointments (52%). This is consistent with previous years.

1.3 Audit Sample Details

For the 2004 calendar year, 39 appointments in 21 ministries or agencies were audited.

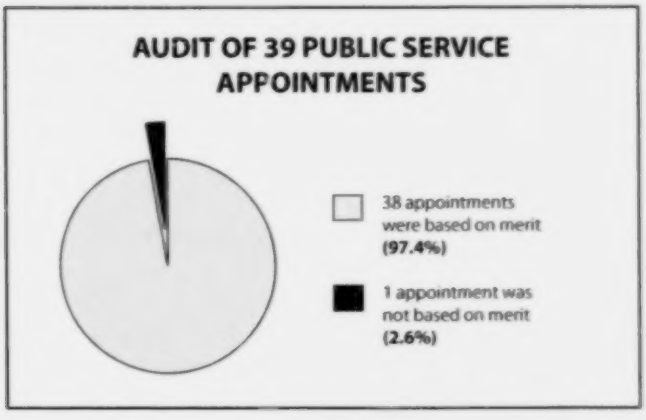
Of the 39 appointments audited, 34 (87%) were appointments of existing public servants and 5 (13%) were new hires to the public service. Temporary appointments for longer than 7 months accounted for 4 (10%) of the appointments audited, and regular appointments accounted for the balance. Of the regular appointments, 33 (85%) were appointed through a competition and 2 (5%) through direct appointment.

1.4 Audit Results

The audit results concluded that:

- 38 appointments (97.4%) were based on merit; and,
- 1 appointment (2.6%) was not based on merit.

There was no evidence to indicate that any individual was unqualified for the position to which they were appointed or that the selection was based on patronage.



Of the 38 appointments that were based on merit, 32 were the result of a properly applied selection process. The remaining 6 appointments were the result of a staffing process that was found to have minor flaws, such as errors in calculating scores or assessment processes that were not clearly documented. However, after considering the staffing process as a whole, these flaws did not alter the appointment decision, i.e., they did not prevent an appointment based on merit.

In the one appointment that was not based on merit, it was as a result of a serious administrative error.

1.5 Year to Year Comparison of Merit Compliance

As the following graph notes, the audit results remain relatively consistent over time. The results in 2001, 2003 and 2004 are virtually identical, while the results in 2002 were slightly lower.

	2001	2002	2003	2004
Appointments Audited	39	30	40	39
Appointments based on merit	37 (95%)	26 (87%)	39 (98%)	38 (97%)
Appointments not based on merit	1	3	1	1
Inconclusive	1	1	—	—

2.0 Staffing Reviews

2.1 Staffing Review Process

The staffing review process is provided for by the *Public Service Act* and applies to positions posted after December 1, 2003. The relevant section of the *Act* that describes the process is included in this report as Appendix D, and the accompanying Regulation is included in this report as Appendix E.

As the final step in an internal staffing review process, the Merit Commissioner is responsible for considering requests for reviews of appointments from employees who are unsuccessful applicants to bargaining unit positions on the ground that the appointment did not comply with Section 8(1) of the *Act*. This section establishes that appointments to, and from within, the public service must:

(a) be based on the principle of merit; and,

(b) be the result of a process designed to appraise the knowledge, skills and abilities of eligible applicants.

The Merit Commissioner, after confirming the eligibility of the employee requesting the review, undertakes a file review of written documentation related to the staffing process. The Merit Commissioner may request additional information from the parties, including verbal evidence to support the written documentation.

The mandate of the Merit Commissioner is to conduct a review into the appointment on the basis of the grounds presented by the employee requesting the review. After conducting a review, the Merit Commissioner may dismiss the request for review, or direct that the appointment or the proposed appointment be reconsidered.

2.2 Review Decisions

During the 2004/2005 fiscal year, the Merit Commissioner received 32 individual requests for review. Of these, 5 were deemed ineligible or were withdrawn prior to the review, and 27 were deemed eligible for review.

The 27 requests eligible for review represented 21 employees, 14 competitions and 5 ministries.

During the 2004/2005 fiscal year, the Merit Commissioner issued 11 decisions. The 16 outstanding requests for review will be decided in the 2005/06 fiscal year and included in the 2005/2006 annual report.

The 11 decisions issued represented 10 employees, 9 competitions and 3 ministries.

Of the 9 competitions reviewed, 7 resulted in appointments that were found to comply with the merit principle. Ministries were asked to reconsider their appointment decisions on 2 of the competitions reviewed.

In the two competitions where merit was found not to have applied, the appointment decisions were the result of a staffing process that compromised the principles of transparency, consistency, and fairness – key attributes of a merit-based appointment.

There was no evidence to indicate that any individual was unqualified for the position to which they were appointed or that the selection was based on patronage.

Appendices

Appendix A — Frequently Asked Questions
- The Merit Principle and the Audit Process
- The Audit Program

Appendix B — Copy of Merit Audit Program

Appendix C — Random Selection of Cases for Merit Compliance Audits
- BC STATS Report

Appendix D — *Public Service Act*
Part 4 – Review of Staffing Decisions

Appendix E — *Public Service Act*
Review of Staffing Decisions Regulation

Appendix F — Glossary

APPENDIX A

Frequently Asked Questions:

— The Merit Principle and the Audit Process

— The Audit Program

Appendix A

1.0 Frequently Asked Questions — The Merit Principle and the Audit Process

1.1 What is the purpose of the merit principle?

The merit principle is designed to ensure that the best person is hired for a position. "Merit" means that appointments will be non-partisan and made on the basis of an assessment of competence and ability to do the job.

The *Public Service Act* requires that all appointments to and from within the public service be based on the principle of merit unless the appointment is specifically exempt.

1.2 Why audit completed job competitions?

In August 2001, amendments to the *Public Service Act* created the Office of the Merit Commissioner. The Merit Commissioner is responsible for monitoring eligible public service appointments and report on whether the merit principle was properly applied. The legislation requires the use of random audits of appointments to and from within the public service to assess whether the appointments are based on merit and whether the individuals appointed possess the required qualifications for the position to which they were appointed. The use of an audit process brings rigour and objectivity to the assessment of whether merit was applied.

1.3 What is an audit?

An audit is an examination that compares evidence of performance against predetermined criteria, with the goal of verifying adherence and reporting the performance or results.

The auditor, who is an independent expert appointed following a tendering process, is required to gather enough supporting and independent evidence in sufficient detail to support their conclusion. To ensure that files selected for audit are identified at random, the file selection process is done with the assistance of BC STATS using a mathematical sampling technique.

1.4 How will results from audits be reported?

The Merit Commissioner will report audit results to Deputy Ministers or other persons having overall responsibility for the ministries, boards, commissions, agencies or organizations audited.

An annual report will also be made to the Legislative Assembly. The report to the Legislative Assembly must not disclose:

- Personal information, as defined in Schedule 1 of the *Freedom of Information and Protection of Privacy Act*, relating to individuals who applied for or were appointed to positions in the public service; or
- The identity of persons who participated on behalf of the ministries, boards, commissions, agencies or organizations, as the case may be, in the selection of the individuals appointed to positions in the public service.

1.5 What happens if an audit determines that the merit principle was not applied?

The Merit Commissioner will only review appointments after the recruitment and selection process has concluded.

The purpose of the audits is to determine and report on whether the merit principle was applied and whether the individuals, when appointed, possessed the required qualifications for the positions to which they were appointed. The audit results are provided to the head of the applicable ministry, agency, board or commission. The audit report will not comment on whether a competition process should be overturned in cases where the merit principle was not applied.

2.0 Frequently Asked Questions — The Audit Program

2.1 What is the objective of the audit program?

The audit program is a step-by-step guide for the review of documentation and independent evidence relating to an appointment decision. The audit program systematically reviews and assesses information that is relevant to making a reasoned decision on whether merit was or was not applied and whether the individual possessed the required qualifications for the position to which they were appointed.

2.2 What is considered in a merit compliance audit?

Merit is more than the principle itself. Certain BC Public Service Agency policies are fundamental to a merit-based staffing process. In addition, practice considerations and guiding principles are directly relevant to the review of the application of merit.

For example, the appointment of an individual must be as a result of: a staffing process which was fair, consistent and transparent; an assessment based only on factors relevant to the work to be performed; and decisions made throughout the process that were reasonable. A staffing process that assesses applicants differently enough that one applicant is measurably disadvantaged relative to other applicants or assigns value to factors that are unrelated to competencies to perform the duties of the position, would not meet the test of fairness relative to merit. The appointment decision must be a reasonable outcome of the process.

2.3 Does each step in the audit program have to be followed in sequence?

No. The audit program recognizes that there are certain common elements related to any staffing process such as a description of job duties, a job posting/advertisement, individual applications, an assessment process, etc. and has therefore been designed in a logical sequence in order to minimize the number of times the auditor handles specific file documentation. This makes it easier and less time-consuming to complete the audit program.

The auditor is not required to follow the questions/steps in order, provided all sections of the audit program are completed (or noted as not being applicable) before any conclusions are made about whether the appointment was based on merit and whether the individual appointed possessed the required qualifications for the position.

2.4 Does the audit program support a results-based approach to staffing?

Yes. The audit program provides opportunities for the auditor to describe the staffing process followed and any exceptions.

The audit program does not assume that staffing processes are structured the same way and reflects an approach to staffing that is principles based and results oriented by allowing for creativity and flexibility. However, it does assume that there are certain common elements related to any staffing process such as a description of job duties, a statement of mandatory selection criteria; consistent and accurate job posting information; a fair and consistent process that assesses candidates against criteria relevant to the job; and clear and properly communicated selection decisions.

APPENDIX B

Merit Audit Program

BRITISH COLUMBIA Ministry of Finance Internal Audit & Advisory Services

MEMORANDUM

To: Diane Rabbani
Merit Commissioner
Office of the Merit Commissioner

May 12, 2005
File No.: 701047

From: Reg Effa
A/Director, Operations
Internal Audit & Advisory Services
Ministry of Finance

Subject: Merit Audit Program

We have reviewed the audit methodology for completed job competition files.

The program addresses your audit responsibilities under the *Public Service Act*. Specifically:

"5.1(1) The Merit Commissioner is responsible for monitoring the application of the merit principle under this Act by:

(a) conducting random audits of appointments to and from within the public service to assess whether:

(i) the recruitment and selection processes were properly applied to result in appointments based on merit, and

(ii) the individuals when appointed possessed the required qualifications for the positions to which they were appointed, and

(b) reporting the audit results to the deputy ministers or other persons having overall responsibility for the ministries, boards, commissions, agencies or organizations, as the case may be, in which the appointments were made.

5.2(1) The Merit Commissioner must report annually, no later than May 31, to the Legislative Assembly concerning the merit commissioner's activities under this Act since the last report was made under this section."

..../2

Our office initially developed the audit methodology with the assistance of your staff as well as input from a focus group comprised of human resource professionals and line managers from various ministries. Your office has amended the audit program in response to changes in the *Public Service Act* and for clarity and efficiency.

The issues encountered in each audit will require a significant degree of judgment to assess their impact on the application of the merit principle. The individuals conducting these audits must have extensive training and experience in the human resource field to deal with the subject area issues as well as knowledge of audit methods. Our office will continue to be available for consultation, advice and training. We recommend that a periodic quality assurance review be carried out on the program to ensure consistency and assess whether issues warrant adjustments to the program.

If the audit program is carried out as designed, we believe that the auditor will examine and obtain sufficient appropriate evidence to form and support an opinion on the application of merit. The results of these audits will allow the Merit Commissioner to reasonably conclude and report on whether:

- the recruitment and selection processes were properly applied to result in appointments based on merit, and
- the individuals when appointed possessed the required qualifications for the positions to which they were appointed.

Limitations:

The audit program is designed to gain reasonable assurance rather than absolute assurance over past events. The audit program is not designed to uncover collusion involving all panel members, a purposeful manipulation of competition file documents, or to determine the intent behind any misapplication of merit.

Original signed by:

Reg Effa
A/Director, Operations
Internal Audit & Advisory Services

Appointment: _____ Auditor's Initial: _____ Date: _____

Competition #: _____

NOTE TO AUDITOR:

1. Obtain the original file for the staffing process under review;
2. Read Appendix "A"; Assessing the Use of the Merit Principle, the Audit Process and the Audit Program; and
3. Complete the following questions.

1. APPOINTMENT DETAILS

Appointment Type (check one):

- Permanent Appointment: _____ In-Service: _____ Out of Service: _____
- Temporary Appointment > 7 months: _____
- Direct Appointment: _____

Classification, Ministry: _____

BCGEU/Nurses/PEA/Exclusion: _____

Successful Candidate(s): _____

Eligibility List (if applicable): _____

- Comments:

2. JOB POSTING/ADVERTISEMENT

		Yes	No
a)	Did the job posting/advertisement (including additional information via electronic links or subsequently given) provide applicants with sufficient detailed and relevant information reflecting both the job and the selection criteria?	☐	☐
	• What evidence supports this finding?		
b)	Did all applicants have access to the same information?	☐	☐
	• What evidence supports this finding?		
c)	Was there consistency, relevancy, reasonableness between the duties described in the job description, the job posting/advertisement and the stated selection criteria?	☐	☐
	• What evidence supports this finding?		

Appointment: _____ Auditor's Initial: _____ Date: _____

Competition #: _____

3. INITIAL SCREENING FOR APPLICANT ELIGIBILITY **Yes** **No**

a) Were all applications submitted for this competition accounted for? ☐ ☐

- What evidence supports this finding?

b) Did all applicants apply within the timeline for receipt of applications? ☐ ☐

- If no, provide details:

c) Were applications assessed for initial eligibility? (e.g. where applicable: in/out of service, age, eligibility to work in Canada, regular status for temporary appointment > 7 months, location requirements, etc.) ☐ ☐

- What evidence supports this finding?

4. SHORT LISTING **Yes** **No**

a) Were eligible applications screened against the same mandatory (short listing) criteria? ☐ ☐

- What evidence supports this finding?

b) If equivalencies were advertised, were the accepted equivalent criteria documented and considered? ☐ ☐

- What evidence supports this finding?

c) Were applications short listed using only the advertised criteria? ☐ ☐

- If screening criteria were revised, provide details:

d) From the documentation related to the screening/short listing process:

How many applicants were eligible for the competition? _____

How many eligible candidates met the mandatory criteria (i.e. were short listed)? _____

How many eligible candidates did not meet the mandatory criteria? _____

Appointment: _____ Auditor's Initial: _____ Date: _____

Competition #: _____

4. SHORT LISTING (cont.) **Yes** **No**

e) Did all candidates who met the screening criteria proceed to the next phase of the section process? ☐ ☐

- If no, provide evidence/details (e.g. withdrawals, other):

f) Select a representative sample (suggest 5 – 15%) of the applications that were screened out and check whether any of these candidates met the mandatory screening criteria. ☐ ☐

- Findings:

5. ASSESSMENT PROCESS **Yes** **No**

a) COMPLETE THE ATTACHED AUDIT WORKSHEET (AWS)

b) Were all the mandatory selection criteria assessed? ☐ ☐

- If no, provide details

c) Were minimum qualifying standards (e.g. pass marks if using numerical ratings) pre-established for all assessment method(s) used? ☐ ☐

- What evidence supports this finding?

- If no, or subsequent changes made, provide details:

d) Review the file documentation for, at a minimum: (1) the successful candidate(s); (2) if applicable, all candidate(s) placed on an eligibility list (3) the highest ranked unsuccessful candidate; and (4) an unsuccessful candidate with a mid-range score, and answer the following questions.

i) Were candidates assessed and evaluated consistently, using the same standards? e.g. comparison of scoring to marking key and comparison of scoring between candidates ☐ ☐

- What evidence supports this finding?

- If no, what was the difference, and was it different enough that a candidate is measurably disadvantaged relative to other candidates?

Appointment: _____ Auditor's Initial: _____ Date: _____

Competition #: _____

5. ASSESSMENT PROCESS (cont.) **Yes** **No**

ii) Were all assessment scores/marks accounted for? e.g. accurate transcriptions of individual scores to final rating sheet; accurate tabulations, etc. ☐ ☐

- What evidence supports this finding?

- If no, give details of discrepancies.

iii) Were past work performance checks done at some step in the assessment process for, at a minimum, all applicants who were offered a position or placed on an eligibility list? ☐ ☐

iv) Were past work performance checks assessed consistently according to criteria relevant to the job? ☐ ☐

- What evidence supports this finding?

v) Were years of continuous service assessed? Note: Years of continuous service must be assessed for BCGEU positions using the "relatively equal" calculation. Years of continuous service must be considered, but not necessarily assessed, for all other positions. ☐ ☐

vi) If years of continuous service were not assessed, and the position is other than a BCGEU, what evidence supports the finding that years of continuous service were considered, and at what point? ☐ ☐

vii) If years of continuous service were assessed, was the assessment accurate? ☐ ☐

- If no, did the error(s) affect the outcome of this competition?

- What evidence supports this finding?.

e) When considered as a whole, was the assessment process consistent with the stated selection criteria and based only on factors relevant to the work to be performed? ☐ ☐

- What evidence supports this finding?

Appointment: _____ Auditor's Initial: _____ Date: _____

Competition #: _____

5. ASSESSMENT PROCESS (cont.) **Yes** **No**

f) Does the documentation provide sufficient information to demonstrate how each of the factors of merit was considered? (includes education, skills, knowledge, experience, past work performance and years of continuous service) ☐ ☐

g) Overall, was the assessment of applicants consistent with the principles of transparency, consistency, relevancy, fairness and reasonableness? ☐ ☐

h) Where staffing principles may have been compromised, did they affect the outcome of the appointment decision? ☐ ☐

6. APPOINTMENT DECISION **Yes** **No**

Review the documentation related to: (1) the successful candidate(s); and (2) if applicable, all candidates placed on an eligibility list. For each of these candidates confirm the following:

a) Were made an offer, or placed in correct order on eligibility list, in accordance with policy requirements? ☐ ☐

b) Where a candidate declined an offer, were subsequent offer(s) made in order of eligibility? ☐ ☐

- If the answer is "no" for any of the above questions, provide details:

c) Is the appointment decision a reasonable outcome of the assessment process? ☐ ☐

- If no, please provide details:

Review the documentation related to the communication of the appointment decision to the unsuccessful applicants. For each of these candidates, confirm the following:

d) Did the unsuccessful employee applicants (at a minimum) receive communication (e.g. letter or email) regarding the outcome of the staffing process? ☐ ☐

- What evidence supports this finding?

Appointment: _____ Auditor's Initial: _____ Date: _____

Competition #: _____

6. APPOINTMENT DECISION (cont.) **Yes** **No**

e) If an eligibility list was established and candidate(s) placed on the list, were those candidates advised of their placement on the list and how long the list would be active? ☐ ☐

- What evidence supports this finding?

7. REVIEW OF STAFFING DECISIONS **Yes** **No**

a) Did this competition prompt a request for an internal inquiry? ☐ ☐

- If yes, how many requests were received by the Deputy Minister for this competition? _____

Did the Deputy Minister support the manager's appointment decision? ☐ ☐

- What evidence supports this finding?

b) Did the competition prompt a request for review by the Merit Commissioner? ☐ ☐

- If yes, how many requests were received by the Office of the Merit Commissioner? _____

Did the Merit Commissioner support the ministry's appointment decision? ☐ ☐

- What evidence supports this finding?

8. CONCLUSIONS **Yes** **No**

a) Does this audit lead to the finding that the appointment was based on the principle of merit? ☐ ☐

- If not, what evidence supports this finding?

b) Does the file documentation indicate that the individual(s), when appointed, possessed the required qualifications for the position? ☐ ☐

- What evidence supports this finding?

Appointment: _____ Auditor's Initial: _____ Date: _____

Competition #: _____

9. ANY FOLLOW-UP REQUIRED?

Follow Up: Date Completed:

10. OTHER COMMENTS

11. AUDITOR SIGN-OFF

Name: Phone: Date:

AUDIT FILE CONTENTS:

Required documentation:

- **Completed Merit Audit Program report**
- **Supporting evidence, appropriately referenced**
- **Auditor's letter of findings to the ministry**

COMPETITION # _____ Auditor's initial: _____ Date: _____

AUDIT WORKSHEET (To be completed as part of Section 5 of the Audit Program)

(See reverse side for instructions)

MANDATORY SELECTION CRITERIA	ASSESSMENT PROCESS
PREFERRED SELECTION CRITERIA	ASSESSMENT PROCESS

AUDIT WORKSHEET — INSTRUCTIONS

1. In the left-hand column, list all the mandatory and preferred selection criteria from the job advertisement, as well as any additional selection criteria provided as a supplement to the advertisement. Place one criterion per line.
2. Review all assessment methods and tools (e.g. tests, interviews, reference questions, etc.) used as part of the selection process. Determine how each of the mandatory selection criteria was assessed and place this information in the right-hand column next to the relevant mandatory criterion. If a specific selection criterion was missed by any of the assessment methods used, enter "Not Assessed" in the right-hand column next to that criterion.

EXAMPLE: Here is a hypothetical statement of qualifications from a Job Posting:

"Diploma, certificate or program completion in computer science and at least three years of related experience in business and systems analysis. Basic knowledge of computer systems design. Knowledge of relational database concepts. Excellent technical writing skills."

Assume that the information in the job competition file shows that the panel used education (Diploma, certificate or program completion in computer science) as a basis for screening the applicants. The panel also used experience to screen applicants and later asked the preferred candidate's references about the preferred candidate's actual experience. The panel assessed "basic knowledge of computer systems design " in the oral interview and tested for "knowledge of relational database concepts" as part of a written test administered to all short-listed candidates. The panel did not test to determine whether each candidate had excellent technical writing skills and did not ask references whether the candidate possessed this skill.

Using the above example, the audit worksheet for this competition file would be completed as follows:

MANDATORY SELECTION CRITERIA	ASSESSMENT PROCESS
EDUCATION	
Diploma, certificate or program completion in computer science	Assessed during the Shortlisting Process
EXPERIENCE	
At least three years of related experience in business and systems analysis	Assessed during the Shortlisting Process Reference Check
KNOWLEDGE	
Basic knowledge of computer systems design	Oral Interview Reference Check
Knowledge of relational database concepts	Written Test
SKILLS	
Excellent technical writing skills	Not Assessed

APPENDIX C

Random Selection for Merit Compliance Audits

Random Selection for Merit Compliance Audits

Prepared by BC STATS for the
Office of the Merit Commissioner

April 2005

Ministry of
Management Services

Background

The Office of the Merit Commissioner was established by legislation in August 2001. Under this legislation, the Merit Commissioner is responsible for performing audits of public service appointments, as part of a program of monitoring the application of the merit principle across government. The results of audits will be reported to senior management in ministries and other organizations covered by the *Public Service Act*. In aggregate, the results will also be communicated to the Legislature as part of the annual report of the Merit Commissioner.

The audits are designed to assess whether recruitment and selection practices have resulted in appointments based on merit, and whether individuals possess the required qualifications for the position to which they were appointed. This requires a close study of the details of each appointment by a staffing expert.

BC STATS has undertaken to ensure that the selected cases are both random and representative. This paper describes the appointments that have taken place in the past year, and explains the method that was used to make an audit selection from these appointments.

Appointments 2004

Appointments were selected based on the 2004 calendar year. In 2004, according to the query parameters as established by the Office of the Merit Commissioner, 2905 appointments were made. Order-in-Council (OIC), transfers, auxiliary appointments, and temporary appointments of less than seven months are not covered in this study.

These 2905 appointments spanned 207 job titles in 37 ministries and organizations covered by the *Public Service Act*. The most common job titles were "Management Level 04" and "Management Level 03" with 187 and 154 appointments respectively. In fact, there were 829 Management Level appointments in 2004 (29% of all appointments).

Ministries with the highest number of appointments, collectively comprising 50% of all 2004 appointments include:

- Children & Family Development 12.8%
- Attorney General & Treaty Negotiations 12.7%
- Forests 9.7%
- Public Safety & Solicitor General 8.6%
- Transportation 6.0%

Fifty-one percent (51%) of appointments occurred in Victoria in 2004.

Random Selection of Cases

The objective of the Merit Commission study is to sample all new appointments in order to obtain an unbiased picture of recruitment practices in the public service. This objective requires a random sample to effectively and efficiently monitor application of the merit principle in public service recruitment.

Within the objective of selecting a random sample, it is also important to ensure that the sample is representative of the actual population. Appointments can be categorized by classification, ministry or organization, location, ministry size, whether permanent or temporary exceeding seven months, and by whether employees are new hires or internal. See the section entitled Distribution of Audits for comparisons of all 2004 appointments and the sample selection.

The number of audits that can be performed in respect to the time available this year is 40. As a result of this relatively small number, it is impossible to guarantee that all of the various categories of appointments can be matched from the audit selection methodology to the actual population. Consequently, three categories were selected as being of greatest importance:

- Ministry/organization size (large or small),
- Appointment status (direct appointment, permanent or temporary exceeding seven months), and
- Hire type (new hire or internal hire).

Ministry/organization size was based on total regular employment at the start of the study period. Ministries with 1000 or more employees were deemed large; ministries with less than 1000 employees were deemed small.

A 2x3x2 matrix was built to reflect the number of possibilities in each of the above three categories, providing us with 12 "cells" into which appointments can be sorted. However, there were no temporary appointments from outside the public service, which eliminated 2 of the cells. Also, there were so few direct appointments of applicants external to the public service that they were collapsed from four cells into two cells (e.g. direct appointments in small and large ministries). This left 8 cells.

To select the cases for audit, each of the 2905 appointments was allocated to one of the eight cells. The number of audits within each cell was calculated as the overall selection ratio of (40/2905) multiplied by the number of cases in the cell. The result of this calculation was rounded to the nearest whole number. This number of cases was then obtained from each cell by sorting in a purely random order and selecting the required number sequentially.

After the final sample had been presented to the Office of the Merit Commissioner for auditing, one of the sampled records was deemed to be out of scope. It was removed from the sample and the original population, leaving 39 sampled records in a population of 2904. The statistics presented in the rest of the report are based on this reduced population.

In summary, random sampling was used to ensure broadly based auditing of all appointments. Sampling independently in the abovementioned categories ensures correct proportional coverage of:

- large and small ministries/organizations,
- permanent, temporary and direct appointments, and
- new hires versus internal appointments.

As a result, the chance of audit is *virtually* identical for each and every appointment, while the correct proportion of audits remains guaranteed in the most important categories.

Distribution of Audits

The following four tables show how the audits are distributed according to various characteristics of appointments. The first three tables cover the categories that were used in sample stratification, the final table referring to a characteristic that was not explicitly controlled. In all cases, percentages were rounded to the first decimal place, and sum to 100%. Due to the size of the sample, the movement of even a single audit from one category to another can change the sample percentages significantly. However, the match between the sample percentages and the corresponding percentages among all appointments is quite close, indicating that the sample is reasonably representative of the whole.

Audits by Ministry/Organization Size

Ministry	Percent of all appointments	Number of Audits	Percent of all Audits
Large	65.2%	25	64.1%
Small	34.8%	14	35.9%

Audits by Appointment Status

Appointment Status	Percent of all appointments	Number of Audits	Percent of all Audits
Direct App.	5.3%	2	5.1%
Temporary	10.8%	4	10.3%
Permanent	83.8%	33	84.6%

Audits by Hire Type

Hire Type	Percent of all appointments	Number of Audits	Percent of all Audits
New Hire	13.9%	5	12.8%
Internal	86.1%	34	87.2%

Audits by Location

Location	Percent of all appointments	Number of Audits	Percent of all Audits
Victoria	51.5%	22	56.4%
Other	48.5%	17	43.6%

Uses and Limitation of Audit Results

The appointments selected for audit are a random and reasonably representative sample of all appointments in 2004 — the audit selection is unbiased in regards to the sampling framework. However, this sample cannot necessary be generalized to the entire population of appointments due to the small size and the possibility of chance.

This means that should the audit process uncover any problems with the way appointments are awarded, this sample should not be used to attribute the same proportion of problems onto the actual population. For example, if the audit process discovers problems with 30% of appointment awards, one cannot necessarily say that 30% of the appointments in the actual population will be problematic.

However, if the audit process discovers that there are no significant problems with the way appointments are awarded, then it is reasonable to conclude that there are very few problematic appointments in the actual population.

In other words, this sample is unbiased and representative of the actual population, but if problematic appointments are found, a larger sample size would be necessary to determine the actual number of problematic appointments in the overall population.

APPENDIX D

Public Service Act
Part 4 – Review of Staffing Decisions

APPENDIX D

Public Service Act

Part 4 – Review of Staffing Decisions

Definitions

16 In this Part, "**deputy minister**" means,

(a) with respect to a position in a ministry, the deputy minister of that ministry, and

(b) with respect to a position with a board, commission, agency or organization, the person having overall responsibility for the board, commission, agency or organization.

Request for feedback on staffing decision

17 (1) An employee who is an unsuccessful applicant for an appointment to the public service may, within the prescribed time, request from the individual responsible for the appointment an explanation of the reasons why he or she was not appointed.

(2) The responsible individual must provide an explanation as soon as practicable after receiving a request under subsection (1).

Inquiry into staffing decision

18 (1) An employee who has made a request under section 17 may request an inquiry into the application of section 8 (1) with respect to the appointment.

(2) A request under subsection (1) must be made within the prescribed period to the deputy minister responsible for the position and must include a detailed statement specifying the grounds on which the request is made.

(3) The deputy minister who receives an application under subsection (1), or a person designated by the deputy minister, must inquire into the appointment and confirm the appointment or proposed appointment or direct that the appointment or proposed appointment be reconsidered.

Review by merit commissioner

19 (1) An employee who is an unsuccessful applicant for an appointment to a position in a bargaining unit under the *Public Service Labour Relations Act* who has made a request under section 18 and disagrees with the decision of the deputy minister or designate under that section may request a review of the appointment by the merit commissioner on the ground that section 8 (1) has not been complied with.

(2) A request under subsection (1) must be made in writing within the prescribed period to the merit commissioner and may only be based upon the grounds submitted to the deputy minister under section 18 (2).

(3) Subject to the regulations, the merit commissioner must establish the procedure for the expeditious consideration of requests for reviews under subsection (1).

(4) If an applicant requests a review under subsection (1), the merit commissioner must, before undertaking the review, inform the deputy minister of the review.

(5) The merit commissioner may summarily dismiss a request for a review under subsection (1) if

(a) the request for review is not made within the time limit prescribed under subsection (2),

(b) the merit commissioner considers that the request for review is frivolous, vexatious or trivial or is not made in good faith,

(c) the request for review does not contain sufficient information to determine whether section 8 (1) has been complied with, or

(d) the grounds, even if proven, are not sufficient to establish that section 8 (1) has not been complied with.

(6) After conducting a review, the merit commissioner may

(a) dismiss the review, or

(b) direct that the appointment or the proposed appointment be reconsidered.

(7) This section does not apply with respect to an appointment to the public service that is referred to in section 10.

Inquiry Act

20 For the purpose of a review under section 19, the merit commissioner has the protection, privileges and powers of a commissioner under sections 12, 15 and 16 of the *Inquiry Act*.

Decision final

20.1 A decision of the merit commissioner under section 19 is final and binding.

APPENDIX E

Public Service Act
Review of Staffing Decisions Regulation

APPENDIX E

Public Service Act

REVIEW OF STAFFING DECISIONS REGULATION

Definition

1 In this regulation, **"Act"** means the *Public Service Act*.

Request for feedback

2 (1) An unsuccessful applicant for an appointment to the public service who wishes to make a request for an explanation to the individual responsible for the appointment under section 17 of the Act must do so within five days of receiving notice of the staffing decision.

(2) The request may be made orally, either in person or by telephone, or in writing.

(3) A written request must be given to the individual responsible or sent to that individual by courier or electronic transmission.

Request for an inquiry

3 (1) An employee who wishes to request an inquiry under section 18 of the Act must make a written request to the deputy minister within five days of receiving an explanation under section 17 of the Act.

(2) The written request must be given to the deputy minister or sent to the deputy minister by courier or electronic transmission.

Request for a review

4 (1) An employee who wishes to make a written request for a review under section 19 of the Act must do so within five days of receiving the results of the inquiry under section 18 of the Act.

(2) The written request must be given to the merit commissioner or sent to the commissioner by courier or electronic transmission.

Remedy of irregularities

5 A review under section 19 of the Act is not invalid because of a defect in form, a technical irregularity or an error of procedure that does not result in a denial of natural justice, and the merit commissioner may relieve against those defects, irregularities or errors of procedure on just and reasonable terms.

APPENDIX F

Glossary

APPENDIX F
Glossary

Auxiliary appointment — the appointment of an individual to a position that is not of a continuous nature. For example, seasonal positions; positions created to carry out special projects or work which is not continuous; temporary positions created to cover employees on vacation or other leaves of absence; and temporary positions created by special employment programs.

Direct appointment — under the authority of the *Public Service Act*, an employee who has been directly appointed to the public service by the Deputy Minister of the BC Public Service Agency in unusual or exceptional circumstances.

Lateral transfer — the movement of an employee from one position to another with the same maximum salary.

Order in Council appointment — as provided by Section 15 of the *Public Service Act*, individuals appointed by the Lieutenant Governor in Council.

Public service — refers to (a) all ministries of the government, and (b) any board, commission, agency or organization of the government and its members or employees, to which the Lieutenant Governor in Council declares the *Public Service Act*, or a provision of this *Act*, to apply.

Regular appointment — the appointment of an individual who is employed for work that is of a continuous full-time or part-time nature.

Temporary appointment — the appointment of a regular employee to another position for a limited period of time. For example, a vacancy created by approved leaves of current employees, time limited projects, recruitment lag and seasonal or temporary relief work.

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